SUPREME COURT OF THE UNITED STATES.

No. 283.

THE ETNA INSURANCE COMPANY AND JOSEPH BENNETT, PLAINTIFFS IN ERROR,

vs.

DOE, EX DEM. ALLEN C. HALLOCK AND WILLIAM C. STODDARD.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

INDEX.

	Original.	Print.
Declaration	2	1
Judgment	8	4
Bill of exceptions	9	4
Clerk's certificate	25	12
Writ of error	26	13
Citation and service	28	13
Letter of Conrad Baker	29	14

1 Pleas of the circuit court of the United States, for the district of Indiana, begun, holden, and continued at the United States court house in the city of Indianapolis, in the said district, on the first Tuesday in May, A. D. 1866, before the honorable David Davis, one of the justices of the Supreme Court of the United States, and honorable David McDonald, district judge of the United States court for the 8th judicial circuit and district of Indiana.

JOHN DOE, ON THE DEMISE OF ALLEN C. HALLOCK, and William H. Stoddard,
vs.
THE ETNA INSURANCE CO., and JOSEPH BENNETT. } Ejectment.

Be it remembered that heretofore, to wit, in the court aforesaid, and before the judges aforesaid, at said May term, 1866, on the 25th day of May, the following proceedings were had in the above-entitled cause:

Come the defendants and file their transfer herein, and thereupon Messrs. Porter and Fishback, counsel for plaintiffs, enter their appearance to the action.

And afterwards, to wit, at the court aforesaid, at the term aforesaid, before the honorable judges aforesaid, on the 16th day of June, the following further proceedings were had. This cause is
2 hereby continued till the next term of this court.

And afterwards, to wit, at the November term, A. D. 1865, before the judges aforesaid, on the 13th day of November, 1865, the following further proceedings were had:

And now here come the plaintiffs by Conrod Baker, their attorney, and by leave of the court withdraw their complaint filed in the Vanderburgh circuit court, and sent up with the transcript and process to this court, and the plaintiffs now file their declaration in ejectment against the said defendants, wherefore it is ordered that the title of this cause be so changed as to correspond with the declaration filed, and that the action be docketed accordingly; here follows said declaration:

In the circuit court of the United States for the district of Indiana, November term, A. D. 1865.

UNITED STATES OF AMERICA, *State and District of Indiana:*

John Doe, plaintiff, complains of the Etna Insurance Company, a citizen of Connecticut, and Joseph Bennett, a citizen of Ohio, defendants; for that, whereas, heretofore, to wit, on the first day of January, 1860, at the county of Vanderburgh, in the State of Indiana, Allen C. Hallock and William H. P. Stoddard, citizens of the said State of Indiana, had demised the following described lands
3 and tenements, with the appurtenances situated in the former town but now city of Evansville, in the county of Vanderburgh,

and State and district of Indiana, and of the value of fifteen thousand dollars, to the said John Doe, to have and to hold the same, to the said John Doe, and his assigns, from thenceforth, for and during and until the full end and term of ten years from thence next ensuing, and fully to be completed and ended, to wit: so much of lots No. one hundred and eighty-seven, (187,) and one hundred and eighty-eight, (188,) in the donation enlargement of said town of Evansville, (according to the recorded plat of said town as recorded in the recorder's office of the said county of Vanderburgh,) as is included in the following boundaries, viz: Beginning at the point where said lot No. 188, corners with Fourth and Walnut streets, of said city of Evansville, thence along Water street on the front line of said lot No. 188, ninety-three feet to a point thirty-seven feet from the alley in the rear of the said lots; thence at right angles to Walnut street aforesaid, and parallel with said alley, as well as parallel with Fourth street, on a direct line across said lots No. 187 and 188, one hundred and fifty feet, to the dividing line between said lot No. 187 and 186, in the same enlargement; and thence at right angles, and along
4 said dividing line ninety-three feet to Fourth street of said city, and thence along the front line of said lots No. 187 and 188, on Fourth street aforesaid, to the place of beginning. By virtue of which said demise, the said John Doe entered into the said lands and tenements with the appurtenances, and became and was possessed thereof for the said term, so to him thereof granted as aforesaid. And the said John Doe being so thereof possessed, the said defendants, the Etna Insurance Company, and Joseph Bennett, afterwards, to wit, on the day and year aforesaid, with force and arms, &c., entered into the said lands and tenements with the appurtenances, and ejected him, the said John Doe, therefrom, and other wrongs to the said John Doe then and there did.

And whereas also, heretofore, to wit, on the day and year aforesaid, at the county aforesaid, in the State and district aforesaid, the said Allen C. Hallock, had demised certain other lands and tenements situated in the former town but now city of Evansville, in the county of Vanderburgh, in the State and district of Indiana, with the appurtenances of the value of seven thousand dollars, to the said John Doe, to have and to hold the same to the said John Doe, and his assigns from thence-
5 forth, for and until the full end and term of ten years from thence next ensuing, and fully to be completed and ended, to wit, the undivided one half part of so much of said lots No. 187 and 188, in the donation enlargement of said town of Evansville, as is included within the boundaries aforesaid; by virtue of which last mentioned demise, the said John Doe, entered into the said last mentioned lands and tenements with the appurtenances, and was thereof possessed for said term so to him thereof granted as aforesaid, and the said John Doe being so thereof possessed, the said defendants, the Etna Insurance Company, and Joseph Bennett, afterwards, to wit, on the day and year aforesaid, with force and arms, &c., entered into the said lands and tenements with the appurtenances, and ejected him, the said John Doe, therefrom, and other wrongs to the said John Doe then and there did.

And whereas also, heretofore, to wit, on the day and year aforesaid, at the county aforesaid, in the State and district aforesaid, the said William H. P. Stoddard had demised certain other lands and tenements, with the appurtenances, situated in the former town but now city of Evansville, in the county of Vanderburgh, in the State and district aforesaid, of the value of seven thousand dollars, to the said John Doe, to have and to hold the same to the said John
6 Doe and his assigns from thenceforth, for and during, and until the full end and term of ten years from thence next ensuing, and fully to be complete and ended, to wit: the one undivided half part of so much of said lots No. 187 and 188 in the donation enlargement of said town of Evansville, as is included in the boundaries aforesaid, by virtue of which said last mentioned demise, the said John Doe entered into the last mentioned lands and tenements with the appurtenances, and became and was thereof possessed for the said term so thereof to him granted as aforesaid; and the said John Doe being so thereof possessed, the said defendants, the Etna Insurance Company and Joseph Bennett, afterwards, to wit, on the day and year aforesaid, with force and arms ejected him; the said John Doe, therefrom, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, and against the peace of the United States; wherefore the said John Doe saith, that by reason of the said several trespasses and ejectments aforesaid, he has sustained damage to the value of $5,000 00, and therefore he brings his suit, &c.

CONROD BAKER & ASA INGLEHART,
Plaintiff's Attorneys.

And afterwards, to wit, at the term aforesaid, on the 6th
7 day of December, 1865, the said defendants file their consent, rule, and plea herein, in the words and figures following, to wit:

And the said Etna Insurance Company and Joseph Bennett come and confess lease, entry, and ouster, and admit themselves to be in possession of said premises described in the declaration. And said Etna Insurance Company and Joseph Bennett for plea say that they are not guilty of the trespass and ejectment in said declaration alleged, and they deny each material statement and allegation therein. And of this they put themselves upon the country, and said John Doe doth the like.

PORTER, HARRISON, and FISHBACK,
For Defendants.

And afterwards, to wit, at the term aforesaid, on the 8th day of December, 1865, the following further proceedings were had:

Now come the parties, by their attorneys aforesaid, and by their written agreement filed herein, the trial of the issue in this cause and the assessment of damages are submitted to the court without the intervention of a jury; and the court, upon hearing the evidence and argument of counsel, finds the defendant guilty, and assesses the

damage at one cent. And thereupon the defendants move the
8 court for a new trial herein. And day is given.

And afterwards, to wit, at the court aforesaid at the May term, 1866, on the 8th day of May, the following further proceedings were had:

Come now the parties, by their respective attorneys, and the court being sufficiently advised, do now overrule the motion for a new trial herein.

And afterwards, to wit, at the court aforesaid at the term aforesaid, on the 9th day of May, 1866, the following further proceedings were had:

Come now the plaintiffs, by honorable Conrod Baker, their attorney, and now enter their nolle prosequi as to the second and third counts of their said declaration; and thereupon said plaintiffs, by counsel, move the court for a judgment upon the finding of the court heretofore made in this cause; which motion is allowed. It is, therefore, considered by the court that the lessors of the plaintiff do have and recover of the defendants the possession of the tenue aforesaid in said declaration mentioned, and that the writ of habere faceas possessionem do issue therefor; and that the said lessors of the plaintiff do recover of the defendants the sum of one cent for their damages herein, together with their costs in this behalf expended, taxed at $.

9 And afterwards, to wit, at the term aforesaid, on the 3d day of July, 1866, the following proceedings were had:

Come now the defendants, by Messrs. Porter, Harrison, and Fishback, their attorneys, and now file a bill of exceptions in this cause, which is in the words and figures following, to wit: Be it remembered that on the trial of this cause the lessor of the plaintiff, to maintain the issue on his part, offered evidence satisfactory showing that at the time of the sheriff's sale of the premises in controversy under the decree of foreclosure he was in possession thereof, under a valid title thereto in fee simple. And thereupon the defendants, to maintain the issue on their part, offered in evidence the following certified transcript of a record of the Vanderburgh circuit court, in the State of Indiana, to wit:

In the court of common pleas, August term, 1860.

STATE OF INDIANA, *Vanderburgh county:*

Pleas began and held at the court house in the city of Evansville, in the county of Vanderburgh, and State of Indiana, before the honorable Joel W. B. Moore, judge of the court of common pleas of said county of Vanderburgh, on the 3d Monday in August, 1860.

Be it remembered that on the 10th day of August, 1860,
10 there was filed in the office of the clerk of said court the complaint which reads in words and figures following, to wit:

Court of common pleas of Vanderburgh county, August term, 1860.

THE ETNA INSURANCE COMPANY
vs.
ALLEN C. HALLOCK, ELIZABETH HALLOCK, and William H. P. Stoddard. } Foreclosure.

The plaintiff says that Allen C. Hallock on the 14th day of April, 1860, made his note for three thousand dollars payable ninety days from that date to the plaintiff, with interest, a copy of which note is herewith filed; and to secure the payment of said note all the defendants jointly made the mortgage which is herewith filed. The said note remaining due and wholly unpaid, the plaintiff demands judgment for three thousand five hundred dollars, and that said mortgage be foreclosed, and other proper relief.

JONES & BLYTHE,
For Plaintiff.

Copy of mortgage.

This indenture, made this 14th day of April, in the year of our Lord one thousand eight hundred and sixty, between Allen C. Hallock and Elizabeth, his wife, and William H. P. Stoddard, of the first part, and the Etna Insurance Company, a corporation established under the laws of the State of Connecticut, of the second part, witnesseth: That the said parties of the first part, for and in
11 consideration of the sum of three thousand dollars, current money of the United States, to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, convey and confirm unto the said party of the second part and its ' forever, lots eight and nine in block one, in the eastern enlargement of the city of Evansville; also, lots one, two, three, four, five, and six, according to the subdivision of lot one hundred and ninety-six in the donation enlargement of the city of Evansville; also, lots one, two, three, four, five, six, seven, and eight according to the subdivision of lots one hundred and eighty-seven and one hundred and eighty-eight in the same enlargement, all in Vanderburgh county, Indiana, together with all and singular the appurtenances thereto belonging or in anywise appertaining, and also all the estate, right, and title of the said parties of the first part of, in, or to the same, to have and to hold the land and premises hereby conveyed and interest therein above described, with the appurtenances aforesaid, unto the said party of the second part and its assigns forever. And the said Allen C. Hallock and William H. P. Stoddard, for themselves and their heirs, executors, and administrators, the aforesaid tracts of land and premises, with the appurtenances aforesaid, unto the said party of the second part
12 and its assigns, against the claim of the parties of the first part, and all persons coming by, from, or under them, either of them, or any other person, do and will warrant and forever defend by these presents. But this deed is subject to this condition: that if the said Allen C. Hallock, his heirs, executors, administrators, or

assigns, will pay to the Etna Insurance Company or its assigns the sum of a promissory note, of even date herewith, for the sum of three thousand dollars, payable ninety days after date to the order of the Etna Insurance Company, with interest, then this deed shall be void, else to remain in full force. And it is provided that if it shall be necessary to foreclose this mortgage a reasonable attorney's fee for so doing shall be allowed by the court and made a part of its decree as foreclosure.

In witness whereof the said parties of the first part have hereto set their hands and seals this the day and year first above written.

ALLEN C. HALLOCK. [SEAL.]
ELIZABETH P. HALLOCK. [SEAL.]
WM. H. P. STODDARD. [SEAL.]

13 STATE OF INDIANA, *Vanderburgh County, ss:*

I, Blythe Hynes, a notary public in and for said county, do hereby certify that on this the 14th day of April, A. D. 1860, the above-named Allen C. Hallock, Elizabeth P. Hallock, and William H. P. Stoddard personally appeared before me and acknowledged the execution of the above and foregoing mortgage.

Witness my hand and official seal at Evansville, this the date above written.

[SEAL.] BLYTHE HYNES, *Notary Public.*

And on the same day, to wit, on the 10th day of August, 1860, there was issued out of the office of the clerk of said court, the summons, which reads in words and figures as follows, to wit:

STATE OF INDIANA, *Vanderburgh County, S. F.:*

To the sheriff of said county, greeting:

You are hereby commanded to summon Allen C. Hallock, Elizabeth Hallock, and William H. P. Stoddard to be and appear before the court of common pleas before the judge thereof, on the second day of the next term of said court, to be held at Evansville, in and for said county, on the 3d Monday of August, 1860, to answer the complaint of the Etna Insurance Company for foreclosure in a
14 civil action, amount demanded, dollars, and of this writ make due return.

Witness the clerk of said court and the seal thereof affixed at Evansville, this 10th day of August, 1860.

[SEAL.] LOUIS RICHTER.
Clerk of the Court of Com. Pleas, V. Co.

Which summons was returned by the sheriff, indorsed as follows, to wit:

Came to hand August 10th, 1860, served on the within named defendant, W. H. P. Stoddard, by reading; and served on Allen C. Hallock and Elizabeth Hallock, by leaving a copy at their last and usual place of residence.

August 10th, 1860.

JOHN S. GAVITT, *S. V. C.*
By J. B. COX, *Deputy.*

And afterwards, to wit, on the 23d day of August, 1860, in the court and before the judge aforesaid, the order in the words and figures following was made, to wit:

And now here come the said plaintiffs, by Jones & Blythe, esq'rs, her attorneys, but the defendants, although having each been three times solemnly called, come not, but herein make default. And it appearing to the court, from an inspection of the sheriff's return, indorsed on the summons issued in this cause, that all of said
15 defendants have been duly served with process herein, ten days before the first day of the present term of this court, this cause comes on to be heard upon the plaintiff's complaint and the exhibits filed herewith, and the court having heard the evidence and being sufficiently advised of and concerning the premises, find that there is due to the plaintiff on the foot of the mortgage filed with plaintiff's complaint, the sum of $3,069 00, for principal and interest, and the further sum of $156 45 as and for the reasonable attorney's fee for foreclosing said mortgage as prescribed therein, making in all the sum now due to said plaintiff $3,225 45. It is, therefore, considered by the court that the said plaintiff recover of and from the said defendants, Allen C. Hallock and William H. P. Stoddard, the sum of thirty-two hundred and twenty-five dollars and forty-five cents, together with her costs and charges by her herein expended. And it is ordered, adjudged, and decreed by the court, that the mortgaged premises described in the mortgage filed with plaintiff's complaint, to wit, lots Nos. eight and nine, in block No. one, in the eastern enlargement of the city of Evansville, in Vanderburgh county, Indiana; also lots Nos. one, two, three, four, five, and six, according to the subdivision of lot one hundred and ninety-six, in the
16 donation enlargement of the city of Evansville, county and State aforesaid; also lots Nos. one, two, three, four, five, six, seven, and eight, according to the subdivision of lots one hundred and eighty-seven and one hundred and eighty-eight in the same enlargement, county and State aforesaid, or so much thereof as may be necessary to satisfy this decree and all costs, be sold by the proper officer as other lands are sold on execution, and that the proceeds of such sale be applied, first, to the payment of the costs of this action and the costs of such sale, and then towards the satisfaction of the amount decreed to be due to the plaintiff. And that from and after such sale, all equity of redemption of the defendant, Elizabeth Hallock, in and to said premises be forever barred and foreclosed; and should said mortgaged premises not sell for a sum sufficient to satisfy this decree and all costs, the residue which may remain shall be levied and collected by execution against the goods and chattels, lands and tenements of the defendants, Allen C. Hallock and William H. P. Stoddard, subject to execution.

And afterwards, to wit, on the 25th day of August, 1860, there was issued out of the office of the clerk of said court the writ or order of sale, which reads in words and figures as follows, to wit:

17 In the court of common pleas, August term, 1860.

STATE OF INDIANA, *Vanderburgh County:*

WEDNESDAY, *August 22d*, 1860.

To the sheriff of Vanderburgh county:

You are hereby commanded to execute the decree of this court, which is in the words and figures following, to wit:

THE ETNA INSURANCE CO.
vs.
ALLEN C. HALLOCK, ELIZABETH HALLOCK, and Wm. H. P. Stoddard. } Foreclosure.

And now here comes the said plaintiff, by Jones and Blythe, esq'rs, her attorneys, but the defendants, although having each been three times solemnly called, come not, but herein make default; and it appearing to the court, from an inspection of the sheriff's return, indorsed on the summons issued in this cause, that all the said defendants have been duly served with process herein ten days before the first day of the present term of this court. this cause comes on to be heard upon the plaintiff's complaint and the exhibits filed herewith, and the court having heard the evidence, and being sufficiently advised of and concerning the premises, find that there is due to the plaintiff, on the foot of the mortgage filed with plaintiffs, the sum of $3,069 00 for principal and interest, and the further sum of $156 45 as and for the reasonable attorney's fee for foreclosing said mort-
18 gage, as provided therein, making in all the sum now due to said plaintiff $3,225 45. It is, therefore, considered by the court that the said plaintiff recover of and from the said defendants, Allen C. Hallock and William H. P. Stoddard, the sum of thirty-two hundred and twenty-five dollars and forty-five cents, ($3,225 45,) together with her costs and charges by her herein expended. And it is ordered, adjudged, and decreed by the court that the mortgaged premises described in the mortgage filed with plaintiff's complaint, to wit: lots Nos. 8 and 9, in block No. one, in the eastern enlargement of the city of Evansville, in Vanderburgh county, Indiana; also lots Nos. one, two, three, four, five, and six, according to the subdivision of lot one hundred and ninety-six, in the donation enlargement of the city of Evansville, county and State aforesaid; also lots Nos. one, two, three, four, five, six, seven, and eight, according to the subdivision of lots one hundred and eighty-seven and one hundred and eighty-eight, in the same enlargement, county and State aforesaid, or so much thereof as may be necessary to satisfy this decree and all costs, to be sold by the proper officer as other lands are sold on execution, and that the proceeds of such sale be applied, first, to the payment of the costs of this action and the costs of such sale, and then towards the
19 satisfaction of the amount decreed to be due to the plaintiff, and that from and after such sale, all equity of redemption of the defendant, Elizabeth Hallock, in and to said premises, be forever barred and foreclosed; and should said mortgaged premises not sell for a sum sufficient to satisfy this decree and all costs, the resi-

due which may remain shall be levied and collected by execution against the goods and chattels, lands and tenements of the defendants, Allen C. Hallock and Wm. H. P. Stoddard, subject to execution.

STATE OF INDIANA, *Vanderburgh County, ss:*

I, Louis Reichter, clerk of the court of common pleas of Vanderburgh county, Indiana, hereby certify that the above and foregoing is a full, true, correct, and complete copy of the original judgment and order of this court in the above-entitled cause, as the same appears of record in order book 4, page 232 and 233, in my office.

Witness my hand and the seal of said court, at Evansville, this 25th day of August, A. D. 1860.

Which order of sale was delivered to the sheriff of Vanderburgh county, and by return on the 28th day of January, 1861, indorsed as follows, to wit:

20 Came to hand August 27th, 1860, at eight o'clock a. m.
J. BLOX, *D. S. V. C.*

Schedule of appraisement.

THE ETNA INSURANCE CO.
vs.
ALLEN C. HALLOCK, ELIZABETH HALLOCK, William H. P. Stoddard.

The following is a list of property ordered to be sold by virtue of an order of sale issued out of the office of the clerk of the court of common pleas, Vanderburgh county, Indiana, and appraised by Horatio Q. Wheeler and F. Lunkenheimer, two disinterested and credible householders of the county, to wit:

Rents and profits of lot No. 8, bl'k No. 1, eastern enlargement	00
Rents and profits of lot No. 9, bl'k No. 1, eastern enlargement	00
Rents and profits of lot No. 1, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 2, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 3, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 4, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 5, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 6, according to sub. of lot 196, donation enlargem't	00
Rents and profits of lot No. 1, according to sub. of lot 187 and 188, donation enlargem't	00

Rents and profits of lot No. 2, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot No. 3, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot. No. 4, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot No. 5, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot No. 6, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot No. 7, according to sub. of lots 187 and 188, donation enlargem't		00
Rents and profits of lot No. 8, according to sub. of lots 187 and 188, donation enlargem't		00
21 Fee simple of lot No. 8 in bl'k No. 1, eastern enlargement		
Fee simple of lot No. 9 in bl'k No. 1, eastern enlargement		$500 00
Fee simple of lot No. 1, according to sub-div. of lot 196, donation enlargem't		100 00
Fee simple of lot No. 2, according to sub-div. of lot 196, donation enlargem't		100 00
Fee simple of lot No. 3, according to sub-div. of lot 196, donation enlargem't		100 00
Fee simple of lot No. 4, according to sub-div. of lot 196, donation enlargem't		100 00
Fee simple of lot No. 5, according to sub-div. of lot 196, donation enlargem't		50 00
Fee simple of lot No. 6, according to sub-div. of lot 196, donation enlargem't		50 00
Fee simple of lot No. 1, according to sub-div. of lot 187 and 188, donation enlargm't		
Fee simple of lot No. 2, according to sub-div. of lot 187 and 188, donation enlargem't		350 00
Fee simple of lot No. 3, according to sub-div. of lots 187 and 188, donation enlargem't		175 00
Fee simple of lot No. 4, according to sub-div. of lots 187 and 188, donation enlargem't		175 00
Fee simple of lot No. 5, according to sub-div. of lots 187 and 188, donation enlargem't		175 00
Fee simple of lot No. 6, according to sub-div. of lots 187 and 188, donation enlargem't		175 00
Fee simple of lot No. 7, according to sub-div. of lots 187 and 188, donation enlargem't		
Fee simple of lot No. 8, according to sub-div. of lots 187 and 188, donation enlargem't		300 00
		1,350 00

All the above property in Vanderburgh county, Indiana.

Lots 8 and 9 subject to liens	$500 00
Sub-div. of 196 to liens	500 00
	2,350 00

OCT. 17TH, 1860.

We, the undersigned, selected to appraise the property mentioned in this schedule, upon oath say that the property is worth, to the best of our ability, the sum specified therein, and that the same was is the fair cash value at this time, subject to the prior liens.

H. O. WHEELER.
F. LUNKENHEIMER.

Subscribed and sworn to before me, this 17th day of October, 1860.

JOHN S. GAVIT, *S. V. C.*
J. B. COX, *Deputy.*

22 As within commanded, after having duly advertised the within described property, I did, on the 17th day of October, 1860, at the door of the court house, in the city of Evansville, Indiana, offer for sale the rents and profits of lots Nos. one, two, three, four, five, six, seven, and eight, sub-division of lots No. 187 and 188, in donation enlargement of the city of Evansville, Indiana, for the term of seven years; there being no bid offered, I did, at the same time and place, offer for sale and sold at public auction the above-described real estate to Joseph B. Bennett, for the sum of nine hundred and ten dollars, and, in consideration of the plaintiffs' attorneys receipt, this decree for said amount, less sheriff's and printer's fee, which was $40 44, I conveyed by sheriff's deed the above-described real estate, dated as above, this Oct. 18th, 1860.

JOHN S. GAVITT, *S. V. C.*
By J. B. COX, *Deputy.*

Lots Nos. one, two, three, four, five, six, seven, and eight, in sub-division of lots 187 and 188, in the donation enlargement, having been bid off for the plaintiff in the name of Joseph B. Bennett, for the sum of nine hundred and two dollars, this decree is satisfied to that amount less $40 44, retained by sheriff for costs by order of plaintiff's attorneys, the date of the residue of the property is suspended.

JONES & BLYTHE,
Attorneys for Plaintiffs.

23 The sheriff will return this writ January 28th, 1861.

JONES & BLYTHE.

STATE OF INDIANA, *Vanderburgh County, ss:*

I, Blythe Hynes, clerk of the court of common pleas, Vanderburgh county, Indiana, do hereby certify that the foregoing is a full, true,

and complete transcript of the record and proceedings had by said court in said cause, as the same appears of record and on file in my office.

In witness whereof I have hereto subscribed my name and affixed the seal of said court, at the city of Evansville, Indiana, this 28th day of November, 1865.

BLYTHE HYNES, *Clerk.*
Per H. W. BIPPERS, *Deputy.*

And the defendants, having here closed the evidence on this part of the lessor of the plaintiff, offered in evidence the original order of sale issued to the sheriff on said decree of foreclosure, and upon which order of sale the sheriff sold to said defendant Bennett the premises in controversy, which order of sale appeared on inspection thereof not to have been issued under the seal of said Vanderburgh circuit court, and not to have had the seal of said court impressed thereon, or in any manner annexed thereto, and which order of
24 sale was in every other respect like unto the copy of the order of sale contained in said copy of the record of the Vanderburgh circuit court. And the court, because said order of sale was not issued under the seal of said Vanderburgh circuit court, did find for the plaintiffs, to which finding of the court the defendants at the time excepted, and time was given until the next term to file their bill of exceptions.

And the court having proceeded to render judgment on said finding for the plaintiff, the defendants did thereupon move the court for a new trial of said cause, because the finding and judgment of the court were contrary to the evidence and contrary to law, which motion for a new trial the court overruled, and to the overruling of said motion the defendants at the time excepted, and time was given until the next term to file their bill of exceptions, and they now pray that this their bill of exceptions may be signed, sealed, and made part of the record of this cause, which is done accordingly.

[SEAL.] DAVID McDONALD.

And thereupon said defendants pray a writ of error to the Supreme Court of the United States, which is allowed, and the amount
25 of the bond is fixed at the sum of five thousand dollars, ($5,000.)

UNITED STATES OF AMERICA, *District of Indiana, ss*:

I, John D. Howland, clerk of the circuit court of the United States in and for the eighth judicial circuit and district aforesaid, do certify that the above and foregoing is a full, true, and complete transcript of the record and proceedings of said court in the above-entitled cause.

In testimony whereof I do hereto set my hand and the seal of said court, at Indianapolis, this 10th day of July, A. D. 1866.

[SEAL.] J. D. HOWLAND, *Clerk &c.*

26 THE UNITED STATES OF AMERICA, *ss*:

The President of the United States of America to the judges of the circuit court of the United States for the eighth circuit and district of Indiana, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said circuit court before you, between John Doe, on the demise of Allen C. Hallock, and William H. Stoddard, plaintiff, and The Etna Insurance Company and Joseph Bennett, defendants, a manifest error hath happened to the great damage of the said defendants, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the third day of December next, in the Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to cor-

27 rect that error, what of right and according to the law and customs of the United States should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this 6th day of July, in the year of our Lord, 1866, and of the independence of the United States the ninety-first.

[SEAL.]

J. D. HOWLAND,
Clk U. S. C. C., Indiana.

Filed this 6th July, A. D. 1866.

J. D. HOWLAND, *Clerk.*

28 UNITED STATES OF AMERICA, *ss:*

To Allen C. Hallock and William H. Stoddard:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the eighth circuit and district of Indiana, wherein the Etna Insurance Company and Joseph Bennett are plaintiffs, and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable David McDonald, judge of the district court of the United States for said district of Indiana, this tenth day of July, in the year of our Lord 1866.

DAVID Mc DONALD.

I acknowledge service of the foregoing citation on behalf of the defendants in error.

CONRAD BAKER,
Atty. for Defendants in Error.

Evansville, Ind., July 17, 1866.

29 EVANSVILLE, *July* 17, 1866.

Messrs. Porter, Harrison & Fishback. Indianapolis, Ind:

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of the 11th inst., enclosing duplicate citations in the Hallock case, and at your request return one of them herewith with my acknowledgment of service indorsed thereon. From the fact that the citation is addressed to Allen C. Hallock, Elizabeth Hallock, and William H. Stoddard, I infer that the title of the case was not corrected as the court at my suggestion directed. Mrs. Elizabeth Hallock is not a party, as you will remember, and I hereby consent that the citation may be so amended as to omit her name. The title of the case when tried was John Doe, on the demise of Allen C. Hallock, and Wm. H. P. Stoddard *vs.* Bennett and the Insurance Co., and I suppose the citation should be made to conform therewith.

30 To this I consent.

Yours truly,

CONRAD BAKER.

P. S. Will you be so kind as to let me see the transcript of the record before filing it.

Filed July 28, '66.

D. HOWLAND, *Clerk.*

31 Indorsed: 729, U. S. circuit court, Indiana. John Doe, on the demise Allen C. Hallock *et al.*, . Ætna Ins. Co. *et al.*

Filed July 28, '66.

J. D. HOWLAND, *Clerk.*

SUPREME COURT OF THE UNITED STATES.

No. 124.

DECEMBER TERM, 1867.

THE ÆTNA INSURANCE COMPANY AND another,
versus
JOHN DOE, on the demise of ALLEN C. Hallock, and William H. P. Stoddard.

In error to the Circuit Court of the United States for the district of Indiana.

It is hereby agreed by and between the parties, that the following mistakes in the transcript of the record, and in the printed copy of the same, are corrected as follows, viz:

First. On the fourth page of the said printed copy of the record, in the commencement of the bill of exceptions, the following language occurs, viz: "And thereupon the defendants, to maintain the issue on their part, offered in evidence the following certified
2 transcript of a record of the Vanderburgh Circuit Court in the State of Indiana." Which language is corrected and made to read as follows, viz: And thereupon the defendants, to maintain the issues on their part, offered in evidence the following certified transcript of a record of the Court of Common Pleas of Vanderburgh County, in the State of Indiana.

Second. On the twelfth page of the printed record the following language occurs, viz:

"Which order of sale appeared, on inspection thereof, not to have been issued under the seal of said Vanderburgh Circuit Court, and not to have had the seal of said Court impressed thereon, or in any manner annexed thereto, and which order of sale was in every other respect like unto the copy of the order of sale contained in said copy of the record of said Vanderburgh Circuit Court. And the Court, because said order of sale was not issued under the seal of said Vanderburgh Circuit Court, did find for the plaintiffs, &c."

Which language is corrected by striking out the words "Vanderburgh Circuit Court," in the two places where the same occur in the

above quotation, and by inserting in each of said places, in lieu of the words so stricken out, these words, to wit: "Court of Common Pleas of Vanderburgh County."

3 These corrections in the transcript of the record are to be considered as having been made, or may be actually made by the clerk of the Supreme Court without any proceedings on the part of either party to have such corrections made.

Indianapolis, Indiana. November, 18, 1867.

PORTER, HARRISON & FISHBACK,
For P'ff in error.

JOHN P. C. SHANKS,
Att'y for Def't.

CONRAD BAKER,
Att'y for Def't in error.